

APR 29 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JESSICA LYNN MANLEY,

Defendant - Appellant.

No. 08-50119

D.C. No. 3:04-cr-03062-LAB-1

MEMORANDUM^{*}

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Submitted April 13, 2009^{**}

Before: GRABER, GOULD, and BEA, Circuit Judges.

Jessica Lynn Manley appeals from the 12-month sentence imposed following revocation of probation. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we vacate and remand.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Manley contends that the district court erred by failing to consider the applicable Guidelines range at sentencing. We agree. In light of this “significant procedural error,” *see Gall v. United States*, 128 S. Ct. 586, 597 (2007), we must vacate and remand for resentencing.

Because we vacate and remand, we decline to reach Manley’s additional contentions.

VACATED and REMANDED.